

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

PILAR ASH,

6:12-CV-2109-TC

Plaintiff,

v.

ORDER

DESCHUTES COUNTY, DESCHUTES
COUNTY SHERIFF'S OFFICE, PAUL
GARRISON, CASEY KARPSTEIN, SHANE
NELSON, DERRON McMASTER,
MICHAEL GILL, DAN BILYEU, JON ASH
and JOAH ASH,

Defendants.

COFFIN, Magistrate Judge:

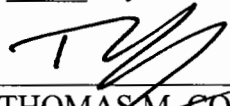
On December 19, 2013, the Court conducted a telephonic hearing on defendant Joah Ash's Supplemental Motion (#67) to Dismiss for lack of jurisdiction pursuant to the Rooker -Feldmen doctrine. Attachments submitted to defendant Joah Ash's briefing on this motion include the State Court's stipulated general judgment of unlimited separation in Pilar Ash, Petitioner, and Joah Ash, Respondent, Case No. 10 DS1093 MS, Circuit Court of the State of Oregon for the County of

Deschutes, dated February 14, 2011, and stipulated supplemental judgment in the same case modifying parenting time and child support dated May 14, 2012.

The state court judgments in the underlying domestic relations case between Pilar Ash and Joah Ash demonstrate that Pilar Ash has a conflict of interest in attempting to function as the guardian ad litem for JA, one of the minor children of Pilar and Joah Ash, in pursuing claims (including claims against Joah Ash) on behalf of JA in this federal action. The stipulated general judgment of unlimited separation awards "joint legal and physical custody of the parties' minor children" to both Pilar and Joah Ash. (Emphasis supplied). I thus conclude that JA's interests in this matter are not appropriately served by allowing Pilar Ash to function as guardian ad litem and pursue claims on his behalf which include claims against his father Joah Ash. Accordingly, Pilar Ash is removed as guardian ad litem in this action. Plaintiff Pilar Ash may petition the State Court having jurisdiction over the above-referenced domestic relations case for an order appointing a guardian ad litem for JA. All claims brought on behalf of JA by Pilar Ash as guardian ad litem for JA are dismissed without prejudice to refile in the event the State Court appoints a new guardian ad litem.

Defendant Joah Ash's motions (#22 and #67) to dismiss claims brought by Pilar Ash are taken under advisement as of this date.

DATED this 19th day of December, 2013.



THOMAS M. COFFIN
United States Magistrate Judge